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10/587,924	08/02/2006	Wolfgang Biesel	BIESEL ET AL-1 PCT	3640
25889	7590	06/21/2010		
COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			EXAMINER GILBERT, ANDREW M	
			ART UNIT	PAPER NUMBER
			3767	
			MAIL DATE	DELIVERY MODE
			06/21/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Acknowledgments

1. This office action is in response to the reply filed on 5/7/2010.
2. In the reply, the applicant amended claims 1, 2, 5-12.
3. Thus, claims 1-12 are pending for examination.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "8" has been used to designate both a means for transferring (see Figs 1-4) and an actuator (Figs 5-6). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: push button 4 is not shown in Fig 4f. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should

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include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The disclosure is objected to because of the following informalities: the Specification uses "8" to reference and discuss different elements in different embodiments (See Figs 1-4 vs. Figs 5-6).

Appropriate correction is required.

7. The incorporation of essential material in the specification by reference to an unpublished U.S. application, foreign application or patent, or to a publication is improper. Applicant is required to amend the disclosure to include the material incorporated by reference, if the material is relied upon to overcome any objection, rejection, or other requirement imposed by the Office. The amendment must be accompanied by a statement executed by the applicant, or a practitioner representing the applicant, stating that the material being inserted is the material previously incorporated by reference and that the amendment contains no new matter. 37 CFR 1.57(f). It is unknown whether the applicant is relying upon essential subject matter contained in DE 198 14 047 C1 as referenced in at least pg 4, last paragraph of the Specification. Appropriation comment and clarification is required.

35 U.S.C. 112 6th Paragraph

8. In reference to claim 1, the Examiner notes that the Applicant may be intending to invoke 35 U.S.C. 112 6th paragraph by using “means for” language reciting function, and not reciting sufficient structure of the means referred to in the specification.

9. Specifically, in claim 1, the Applicant’s recitation of limitation: “means for transferring” respectively may invoke 35 U.S.C. 112 6th paragraph by using “means for” language reciting function, and not reciting sufficient structure of the means referred to in the specification.

10. The Examiner notes that if the Applicant intends to invoke 35 U.S.C. 112 6th paragraph the Applicant needs to state that on the record and include a specific and detailed description and citation of the exact structure in the specification the means for language is invoking.

11. In reference to claims 5 and 6, the Examiner notes that the Applicant may not being invoking 35 U.S.C. 112 6th paragraph by reciting function and reciting sufficient structure of the means referred to in the specification.

Claim Rejections - 35 USC § 112

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claim 5 recites the limitation "the same" in In 5. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 12 recites the limitation "the holder" in In 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

16. Claims 1-12 rejected under 35 U.S.C. 102(b) as being anticipated by Almasian et al (7137974). Almasian et al discloses the apparatus and method of a patient connector (4); a device (2) for loading a new closure plug (22) into the patient connector, the patient connector having a housing (8), and a movable actuator (10), the device consisting of a housing (6) containing a new closure plug (22) and means for transferring (20); wherein transferring the new plug moves the actuator from a used position to a starting position (Figs 2a-f; alternatively, Figs 5a-e, Figs 7a-e); the housing connectable with the patient connector (Fig 1-2f) by a positive connection or friction type connection (42, 44; Figs 1-2f); means for transferring being a push-button or turning knob (flange on 28) and an intermediate element (20) between it and the plug and delivering the plug by linear displacement (Figs 2a-f); the retention force of the holder (18) being less than that of the patient connector (Figs 2a-f); the new closure plug in a retracted position within housing (Figs 2a-f; Summary); for use in peritoneal dialysis (col 7, lns 38-41).

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 Forms.

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW M. GILBERT whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Simons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M Gilbert/

Examiner, Art Unit 3767

/Kevin C. Sirmons/

Supervisory Patent Examiner, Art Unit 3767